

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Chapter 9.1 OFFENSES GENERALLY

9.1.1 Unlawful to Obstruct Passage of Pedestrians, Motor Vehicles.

It is unlawful for any person to stand, loiter or in any other manner to obstruct, interfere, impede or interrupt the orderly, safe and free passage of pedestrians and motor vehicles upon any public street or sidewalk within the Town.

9.1.2 Firearms—Unlawful discharge.

9.1.2.1 No Firearm Discharge Zone.

It is unlawful to discharge or intend to discharge a firearm in certain areas within the Town, as set forth in Section 9.1.3.2 of this section. This area is known as the “no firearm discharge zone.”

If a person is found to be in possession of a loaded firearm outside of the person’s residence within the “no firearm discharge zone,” it is considered prima facie evidence of the intent to discharge the firearm. This section does not apply to persons holding a valid permit to carry a concealed weapon under 25 M.R.S. §2003.

9.1.2.2 Definitions.

As used in this section:

Firearm means any weapon, whether loaded or unloaded, which will expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be readily made into a firearm by the insertion of a firing pin, or other similar thing in the actual possession of the actor or an accomplice is a firearm. A weapon is considered loaded when the chamber contains either a live round of ammunition or a live blank round, or a loaded magazine or clip is inserted into the weapon. A weapon that has an empty chamber and an empty magazine well is considered unloaded.

Muzzleloader or **muzzleloading firearm** means a firearm that has a rifled or smooth-bored barrel capable of firing only a single charge, loaded through the muzzle, and ignited by a percussion cap or priming charge of a flint, match, or wheel-lock mechanism, including in-line caplock, etc. In-line muzzleloading rifles may be used during hunting season.

9.1.2.3 No Discharge Zone.

The “no firearms discharge zone” is defined as follows:

An area within the Town beginning at the Piscataqua River Bridge on Interstate 95 and proceeding North on I 95 to Cutts Rd., then Easterly on Cutts Rd. to Route 1, then Southerly on Route 1 to Haley Rd., then South-Southeast along Haley Rd. to Hoyts Island Lane to the Shore of Pepperrell Cove, then turning and proceeding along the shore from Pepperrell Cove to the Piscataqua River, continuing along the river bank to the starting point at the bridge on Interstate 95.

9.1.2.4 Discharge Authorized.

The discharge of firearms within the Town in areas outside of the “no firearms discharge zone” is also prohibited except that hunting with a shotgun or muzzleloader during the Maine open hunting season, as determined by the Maine Department of Inland Fisheries and Wildlife.

9.1.2.5 Exceptions.

Sections 9.1.2.1 and 9.1.2.3 of this section do not apply to the following:

- A. The area bordered on the west by Route 1, on the south by C.M.P. power line right-of-way east to Norton Road, north along Norton Road to Miller Road, east to Bartlett Road, north on Bartlett Road to Payne Road;
- B. Law enforcement officers acting in the performance of their duties;
- C. The use of blank cartridges for a show or theatrical production or any supervised educational program;
- D. The use of blank cartridges or signal cannon for ceremonial purposes, or athletic events, or by military organizations or service groups;
- E. The use of a firearm for legal self-defense or excusable homicide situations;
- F. Testing by a professional gunsmith into a suitable container, backstop or target as approved by the police chief or his/her designee;
- G. Discharge of firearms for protection of property from wild animals as authorized by 12 M.R.S. §12401 and 12402;

9.1.2.6 Privately Operated Shooting Ranges.

The use of privately operated shooting ranges approved by the Chief of Police is subject to the following regulations:

- 1. No shooting on Sundays,
- 2. Shooting may not commence before 9:00 a.m.,
- 3. Shooting Monday through Saturday must cease at sunset,
- 4. Warning signs must be posted every fifty (50) feet along the entire perimeter of the range area. Signs must advise that there is a firearms shooting range in the immediate area,
- 5. Shooting ranges must be annually inspected by the police department. It is the responsibility of the landowner to request reinspection of the range at least thirty (30) days prior to the expiration of the current permit;
- 6. As of the effective the date of the ordinance codified in this section, the police department will no longer permit any new privately operated shooting ranges.

Chapter 9.2 OBSCENITY

9.2.1 Purpose.

The purpose of this chapter is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The Town Council has enacted this chapter for the purposes of promoting and protecting the general welfare, public safety, public order and morals.

9.2.2 Definitions.

As used in this chapter the following words, terms and phrases have the meaning ascribed to them in this section:

Commercial enterprise means any business, corporation, association or natural person established for pecuniary gain other than a theater.

Engage in means to solicit, produce, direct, finance, physically participate in, compensate others for, further the interest of, or be otherwise involved with the proscribed conduct.

Exhibition means any aural, visual or tactile performance, dramatization, show or display which includes any amount of human, animal or animated conduct whether presented live or by way of mechanical reproduction, sound recording, audio-visual cassette or tape, silhouette depiction or by any other means.

Obscene means any conduct of a sexual nature which:

1. To the average individual applying contemporary community standards, considered as a whole appeals to the prurient interest;
2. Presents in a patently offensive manner actual or simulated ultimate sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in context of ultimate sexual acts, exhibition of the human male or female genitals, pubic area, buttocks or the female breast below the top of the nipple; and
3. Considered as a whole lacks serious literary, artistic, political or scientific value.

Present means to show, reveal, display or expose to any person.

Theater means:

1. Any building or hall designed primarily for showing motion pictures, having a permanent movie screen and permanently fixed seats arranged in such fashion as to allow spectators an unobstructed view of the screen;
2. An open-air theater designed primarily for showing motion pictures, having a permanent movie screen and permanent devices for broadcasting movie sound tracts in motor vehicles;
3. Any playhouse, hall, or similar structure designed primarily for legitimate artistic expression.

9.2.3 Prohibitions.

It is unlawful within the Town for any commercial enterprise to:

- A. present for profit any obscene exhibition.
- B. engage in any obscene exhibition for profit.
- C. solicit, permit, promote or assist any commercial enterprise or person to present or engage in any obscene exhibition.

9.2.4 Exceptions.

This chapter is not intended to regulate any conduct expressly regulated by existing state statute.

9.2.5 Violation—Penalty.

- A. Any conduct made unlawful by this chapter and any violation of this chapter is punishable by a fine of one hundred dollars (\$100.00) for each offense. Each day that such unlawful act or violation continues is considered a separate offense.
- B. In addition to any other penalty provided by law, the commission of acts prohibited by this chapter shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

Chapter 9.3 CURFEW HOURS FOR MINORS

9.3.1 Definitions.

In this chapter:

Curfew hours means:

- 1. Ten p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until six a.m. of the following day; and
- 2. 12.01 a.m. until six a.m. on any Saturday or Sunday.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian means:

1. A person who, under court order, is the guardian of the person of a minor; or
2. A public or private agency with whom a minor has been placed by a court; or
3. A person at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

Minor means any person under eighteen (18) years of age.

Operator means any individual, firm, association, partnership or corporation operating or managing any establishment. The term also includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, or step-parent of another person.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, apartment houses, office buildings, transport facilities, shopping malls and shops.

Remain means to:

1. Linger or stay; or
2. Fail to leave premises when requested to do so by a police officer or the owner, operator, or any other person in control of the premises.

Serious bodily injury means bodily injury as defined in 17-A M.R.S. §2(23)

9.3.2 Offenses.

A. Minors commit a civil violation if they remain in any public place or on the premises of any establishment within the Town during curfew hours.

B. Parents or guardians of a minor commit a civil violation if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment during curfew hours.

9.3.3 Defenses.

It is a defense to prosecution under Section 9.3.2 that the minor was:

- A. Accompanied by the minor's parent, guardian or spouse over the age of eighteen (18) years;
- B. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- C. In a motor vehicle involved in interstate or intrastate travel;

D. Engaged in an employment activity, or going to or returning from an employment activity, without detour or stop;

E. Involved in an emergency;

F. On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;

G. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Town, a civic organization, or other similar entity that takes responsibility for the minor; or going to or returning home from any of the activities named above, without any detour or stop;

H. Exercising First Amendment rights protected by the United States Constitution.

9.3.4 Enforcement.

A. Before taking any enforcement action under this chapter, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a summons or take any other enforcement action unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 9.3.3 is present.

B. Upon making such a determination, the officer shall take the offender into interim care and may also issue a written warning or civil summons to the offender. The offenders in interim care are to be transported either to the offender's home or to the police station where they will be held in a public area of the station until remanded to the custody of a parent or guardian. All first time offenders are to be issued a warning.

9.3.5 Penalties.

A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).